

CONTRACT FOR Re-Trending & Related Services

This contract is entered into this 6 day of November ~~October~~ 2007, by and between the County Assessor of Shelby County, Indiana, hereinafter referred to as the "Assessor", and Nexus Group, Inc. of Indianapolis, Indiana, hereinafter referred to as "Contractor."

RECITALS

- A. The Department of Local Government Finance (hereinafter "Department"), pursuant to Resolution 2007-10, issued a Re-Trending Directive on October 12, 2007, pursuant to Ind. Code § 6-1.1-4-9, finding sufficient cause to believe it necessary that Shelby County re-trend certain real property in Shelby County for the March 1, 2006 assessment date. Hereinafter, this document shall be referred to as the DLGF Directive.
- B. The Assessor has determined that Shelby County should employ the Contractor as a professional appraisal firm pursuant to the provisions of the DLGF Directive and Indiana Code § 6-1.1-4-16 for the purposes outlined in the DLGF Directive and 50 IAC 21.
- C. Pursuant to Paragraph 9 of the DLGF Directive, the Department has expressly authorized the Assessor to perform re-trending through Special Procurement and without employing the provisions of Indiana Code § 6-1.1-4-18.5.
- D. The Assessor wishes to contract with the Contractor and the Contractor is willing to be contracted by the Assessor;
- E. The Contractor is a Professional Appraiser as the term is defined in Indiana Code § 6-1.1-4-17(c), Indiana Code § 6-1.1-31.7 and 50 IAC 15;
- F. This Contract is subject to the provisions of 50 IAC 15, and the Contractor will comply with the provisions of 50 IAC 15 in connection with this Contract; and
- G. This Contract is subject to the provisions of the DLGF Directive, and the Contractor will comply with the provisions of the DLGF Directive in connection with this Contract.

AGREEMENT

In consideration of the premises, mutual covenants and obligations of the parties, the Assessor and Contractor agree as follows:

ARTICLE 1. INCORPORATION OF RECITALS.

The foregoing recitals are adopted by the parties as being true and accurate statements and are hereby incorporated as binding representations of this Contract.

ARTICLE 2. DUTIES OF THE CONTRACTOR.

2006 Re-Trending Services. The Contractor shall provide technical assistance and assessment review on behalf of the Assessor and in accordance with the DLGF Directive as to the March 1, 2006 assessment date. These duties and deliverables are further specified in the Work Plan, Attachment 1 to this Contract, and the DLGF Directive, Attachment 2 to this Contract.

(b) **Specific Duties and Deliverables.** Specifically, the Contractor shall provide the following technical assistance under this Contract and in accordance with the DLGF Directive and applicable law and standards:

1. **Review for Undervalued Property.** The Contractor shall review all residential, commercial, and industrial real property in Shelby County in accordance with Paragraphs 1 through 3 of the DLGF Directive.
2. **Land Valuation.** The Contractor shall analyze and make recommendations to the County Assessor whether current land values are accurate, as provided in Paragraphs 14 through 16 of the DLGF Directive.
3. **Neighborhood Evaluation.** The Contractor shall perform a review and analysis of residential neighborhood boundaries and commercial and industrial market areas and make recommendations to the County Assessor regarding the necessity or advisability for refining, developing, modifying, or delineating assessment neighborhood boundaries to reflect comparable properties and property use groups as provided in Paragraphs 18 and 19 of the DLGF Directive.
4. **Residential Properties.** The Contractor shall perform a review and adjustment of residential land values in accordance with 50 IAC 21 and Paragraphs 20 through 25 of the DLGF Directive.
5. **Cost Approach.** The Contractor shall develop an annual adjustment factor for all non-residential properties using updated cost and depreciation tables that reflect property values for January 1, 2005, and shall apply the factor to either the individual components or the overall improvement value, as provided in Paragraphs 26 and 27 of the DLGF Directive.
6. **Sales Approach.** The Contractor shall evaluate the validity of each sale from the 2004 and 2005 sales disclosure file database, and where applicable, make recommendations to the County Assessor to generate and apply an annual adjustment factor. If the County Assessor or the Department rejects the annual adjustment factors, the Contractor shall develop new factors, as provided in Paragraphs 28 and 29 of the DLGF Directive.
7. **Use of Additional Data.** Pursuant to 50 IAC 21-5-2(b), should the Contractor or assessing officials determine there are insufficient sales of commercial or industrial improved property in a township or county to determine an annual adjustment factor, the Contractor shall use other data or information to derive annual adjustment factors or modify the values of commercial and industrial property, including, but not limited to:
 - Marshall and Swift cost and depreciation tables from the first quarter of the calendar year preceding the assessment date; and
 - Income data, rental data, market value appraisals, and other relevant evidence adjusted, as applicable to the January 1, 2005 valuation date.
8. **Reconciliation of Approaches.** Once the factors have been determined under the cost approach, sales approach and the use of additional data, as applicable, the Contractor shall compare and reconcile those factors in accordance with generally accepted appraisal practices and make recommendations to the County Assessor and, upon approval, to the Department as to the final annual adjustment factor for each property, as provided in Paragraphs 30 through 32 of the DLGF Directive.

9. **Income Approach.** The Contractor shall use the income approach and gross rent multiplier approach to develop assessed values for non-residential properties as appropriate, as provided in Paragraphs 33 and 34 of the DLGF Directive.
10. **Final Ratio Study.** Once all real property has been reviewed and final annual adjustment factors have been applied, a sales-assessment ratio study shall be completed by the Contractor and submitted for approval by the Assessor and Department, as provided in Paragraphs 35 through 39 of the DLGF Directive. In accordance with the agreed on time schedule between the Contract Representative and the Contractor, the Contractor shall submit to the Assessor all parcel data in the specified formats as required by Indiana Code § 6-1.1-4-25 to be utilized by the Department in accordance with Indiana Code § 6-1.1-33.5-3.
11. **Compliant Data Submission.** If the Contractor modifies parcel characteristics in any way, the Contractor agrees to generate complete parcel characteristics and parcel assessment data in a manner and format acceptable to the Department, Assessor and the Legislative Services Agency. If the Contractor does not modify parcel characteristics, the Assessor remains responsible for generating complete parcel characteristics and parcel assessment data in a manner and format acceptable to the Department and the Legislative Services Agency.
12. **Level II Functions.** All direct assessment activities must be performed by a level two assessor-appraiser certified under Indiana Code § 6-1.1-35.5. All work performed under this Contract must be organized, supervised and reviewed by a level two assessor-appraiser certified under Indiana Code § 6-1.1-35.5. Additionally, a level two assessor-appraiser certified under Indiana Code § 6-1.1-35.5 must personally fulfill all assessing functions under this Contract.
13. **Additional Deliverables.** (1) Upon completion of the 2006 Review, Contractor shall return final versions of key decision-making materials to the County Assessor, including without limitation the following:
 - (A) Supporting tools, analyses, and methodology used to complete the 2006 Review;
 - (B) Documentation of procedures used throughout the annual review and adjustment process;
 - (C) Any and all training materials and manuals used to train the Contractor's staff;
 - (D) All field worksheets, if any, for each parcel of commercial/industrial real property;
 - (E) All maps, sales disclosures, and/or other information provided for the Contractor by the County Assessor;
 - (F) All information gathered, created, or reviewed for the verification of sales disclosure; forms, neighborhood delineations, land values, and/or any time adjustments to sales prices; and
 - (G) All ratio studies and supporting documentation.(2) All final versions of key decision-making materials returned to the County Assessor shall be presented in an orderly and logical manner and shall be indexed such that the County Assessor and Township assessing officials may reasonably identify, locate, and review said materials.

ARTICLE 3. RESPONSIBILITIES OF THE ASSESSOR.

The Contractor will not be responsible for the following duties contained in 50 IAC 21 and the DLGF Directive:

- (a) If any annual adjustment is applied, sending notices of assessment or notices of assessment change to each affected taxpayer pursuant to Indiana Code § 6-1.1-4-22(a) or § 6-1.1-9;
- (b) Printing and mailing of Form 11's or other assessment notifications;
- (c) Provision of parcel characteristic data in a format (database, spreadsheet, etc.) acceptable to the Contractor;
- (d) Pursuant to the requirements of Ind. Code § 6-1.1-5-16 and the DLGF Directive, the County Assessor shall be responsible regarding the need to consolidate more than one (1) existing contiguous parcel into a single parcel.
- (e) Provision of plat maps, GIS maps and similar.

ARTICLE 4. CONSIDERATION

(a) The Assessor shall pay the Contractor a fee of \$134,500.00 in full payment for the complete performance of all duties, responsibilities and activities set out in this Contract and on the Work Plan attached as Attachment 1, payable in accordance with the provisions of Article 10 hereof. Any and all additional payments, including any additional duties performed outside those specific hereunder and contractual balance shall be due and payable upon mutual agreement of the Assessor and Contractor upon completion of all deliverables hereunder.

ARTICLE 5. TERM OF CONTRACT & EXTENSION.

- (a) The Contractor shall commence work under this Contract within three (3) business days of the date of execution of this Contract.
- (b) The Contractor shall complete all work to be performed under this Contract, other than assistance required in regard to an appeal filed under Indiana Code § 6-1.1-15, based on a written schedule agreeable to the Contract Representative and the Contractor. In accordance with the DLGF Directive and the Work Plan, the completion date for all services pertaining to the review of 2006 assessments required by the DLGF Directive, excluding appeal representation, shall be January 15, 2008, unless an extension of time is granted by the Department and the County Assessor.
- (c) The Assessor and the Contractor may continue these assessment duties and similar functions for assessment years 2007 and forward upon mutual agreement of all contractual terms (i.e., duties, time schedules, work plans, project costs, etc.). Additional agreements shall be entered into in accordance with then-existing state statute and rules.

ARTICLE 6. PROFESSIONAL APPRAISER CERTIFICATION; CONTRACT VOID UPON REVOCATION.

- (a) The Contractor must be certified as a professional appraiser" under Indiana Code § 6-1.1-31.7 in order to enter into this Contract. The Contractor represents and warrants that he/she is certified as a "professional appraiser" under Indiana Code § 6-1.1-31.7 at the time of entering into this Contract; and will take all steps necessary to remain certified as a "professional appraiser" under Indiana Code § 6-1.1-31.7 through the term of this Contract.
- (b) In accordance with Indiana Code § 6-1.1-31.7-4, this Contract is void and the Contractor may not receive additional funds under this Contract if the Contractor's certification as a "professional appraiser" under Indiana Code § 6-1.1-31.7 is revoked.

ARTICLE 7. CONTRACT REPRESENTATIVE.

The Assessor shall designate a Contract Representative to serve as the primary contact person under the Contract. The Assessor shall notify the Contractor of the designation.

ARTICLE 8. WORK PLAN.

Attachment 1 to this Contract is the Shelby County Work Plan and Cost Schedule ("Work Plan"). The Contractor and Assessor shall jointly determine deliverable dates for each element contained therein and shall revisit such dates no less frequently than weekly during the performance of this Contract, so as to better address the needs of the Assessor and the provisions of the DLGF Directive. The Assessor and Contractor shall work closely to determine a mutually agreeable work plan to meet various deadlines, and quality of work product and related items, subject to the approval of the Department.

ARTICLE 9. CONTRACT REPORTS AND MONITORING.

The Contractor shall be required to provide weekly written, electronically transmitted progress reports to the Assessor in a form reasonably prescribed by the Assessor and/or Department. The reports shall consist of a progress report concerning compliance with the timeline contained in the Work Plan and the DLGF Directive and any concerns or reasons for delay in complying with same. The reports may contain the number and/or type of parcels being reviewed by the Contractor and the status of the work being done. The Assessor may require that additional information be included in the reports. The Contractor shall submit the reports to the Contract Representative and County Assessor at least weekly during the term of this Contract pertaining to compliance with the DLGF Directive and its timelines, or more frequently as conditions merit. The Assessor and Contract Representative may at all times inspect the records of the Contractor to verify the progress and evaluate the quality of work performed. The Assessor or Contract Representative may accompany the Contractor's personnel in their assigned duties to assure the Contractor's adherence with contractual specifications and approved procedures. The Contractor shall extend its full cooperation to the Contract Representative by providing access to all program related records, and by making personnel available upon request for the purpose of monitoring quality, performance and progress.

ARTICLE 10. TIME AND MANNER OF PAYMENT.

(a) The Contractor shall be paid upon satisfactory completion of the 2006 trending services and approval of the County Assessor and Department in the total amount of \$114,500, excluding services associated with appeals and the provisions of Article 17. The Contractor shall be paid for appeal services in the amount of \$20,000 when the appeals for 2006 re-trending are at least 90% complete. Final payment for any Additional Services authorized pursuant to Article 17 will be due upon mutual satisfaction of both parties that all such contract deliverables have been met. Payment shall be made to the Contractor within thirty (30) days after approval by the Contract Representative and the Department, if applicable.

(b) If all work is not completed under this Contract by the completion date specified in Article 5 of this Contract or if all required data is not submitted to the Department in the appropriate format in a timely manner, then all further payments will be suspended at that time until all work

has been satisfactorily completed and approved by the Contract Representative. Payments of the suspended amount will be made to the Contractor within ten (10) days after that approval by the Contract Representative.

ARTICLE 11. PENALTIES.

Time is of the essence to the performance of this Contract. Pursuant to the DLGF Directive, all responsibilities regarding the review of 2006 assessments, excluding appeal-related functions of the Contractor herein, shall be completed by January 15, 2008. Any delays caused through no fault of the Contractor shall be noticed in writing to the Assessor and additional equivalent days shall be granted to the Contractor due to such inadvertent delays. Pursuant to Indiana Code § 6-1.1-4-19.5 (b)(2) payments due under this Contract shall be reduced by the amount of \$500.00 per business day that any part of the Contractor's duties, excluding appeal-related functions, remains incomplete after any due date specified in this Contract.

ARTICLE 12. RESPONSIBILITIES.

The final determination of assessed values is and shall remain the responsibility of the Assessor.

ARTICLE 13. NON-DISCRIMINATION.

Pursuant to Indiana Code § 22-9-1-10, the Contractor and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to the individual's hire, tenure, terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of contract.

ARTICLE 14. GENERAL PROVISIONS.

- (a) This Contract sets forth the entire Contract and understanding of the parties with respect to the subject matter and supersedes all prior oral and written agreements and understanding between the Assessor and the Contractor. No representation, promise, inducement, or statement of intention has been made by either party which is not set forth in this Contract and neither party shall be bound by or liable for any alleged representation, promise, inducement or statement of intention not so set forth.
- (b) No waiver, alteration, modification, or cancellation of any of the provisions of this Contract shall be binding unless made in writing and signed by all those signing this Contract, or his or her successors in office. The failure of either party at any time or times to require performance of any provisions of this Contract shall not be considered a waiver and will in no 1-nanner affect the right at a later time to enforce that provision.
- (c) In the event that one or more of the provisions contained in this Contract shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions contained in this Contract. If any provisions contained in this Contract shall for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it then shall appear.
- (d) This Contract shall be subject to and interpreted in accordance with the law of the State of Indiana and suit, if any, shall be brought in Indiana courts.
- (e) This Contract shall be binding upon and inure to the benefit of the parties and their respective

successors, assigns and legal representatives, provided, however, that this Contract is not binding upon a successor to the elected office of an undersigned Assessor without the successor's prior written consent, nor can the rights, duties, and privileges of the Contractor under this contract be transferred, sublicensed or assigned by it, either in whole or in part, without the prior written consent of the Assessor.

ARTICLE 15. DELAYS.

Whenever the Contractor or the Assessor have knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, they shall within five days provide written notice of the delay to the other party by certified mail, return receipt requested, including all relevant information with respect to the actual or potential cause of the delay.

In the event of a delay by the Department, legislative action or court ruling, the Assessor reserves the right to re-negotiate all terms of the Contract including costs.

ARTICLE 16. TERMINATION & PERFORMANCE BOND.

(a) The Assessor may terminate this Contract, if he or she determines that the Contractor has failed to make satisfactory progress toward performance. In such case, the Assessor will transmit a written Notice of the Default and termination to the Contractor five (5) business days prior to the proposed termination date, and the Contractor shall be given five (5) business days in which to remedy the condition which has caused the Termination Notice, or suffer termination.

(b) The Contractor shall continue Contract performance to the extent not terminated under the provisions of the above paragraph and shall be compensated for its performance pursuant to an agreement of the parties.

(c) In the event the Assessor terminates this Contract, in whole or in part as provided in this section, the Assessor may procure, upon such terms and in such manner as he or she may deem appropriate, services similar to those so terminated at their own expense. Due to the fact that payments under this Contract are not due until both the Assessor and the Department approve the Contractor services provided, the Assessor and Shelby County Commissioners specifically waive any performance bond requirements for this Contract.

ARTICLE 17. APPEALS & ADDITIONAL DUTIES.

The Contractor shall without limitation provide expert opinions, expert witness testimony, hearing participation at all levels and similar related functions for all 2006 pay 2007 appeals across all property classes, related to any change of assessment resulting from work under this Contract. This provision of the contract shall only terminate once all such appeals are resolved, but may be invoiced when at least 90% of all such initial appeals are likewise resolved. This function shall be at the request of the Assessor for support of real property assessed values, utilizing personnel familiar with the entire annual adjustment process, including re-inspection of property or explanation of ratio studies as may be needed. These duties shall be performed by a competent Indiana State Certified Level II Assessor/Appraiser. If an assessed value and/or annual adjustment factor recommended by the Contractor is appealed to any reviewing body, the Contractor or its employee or representative shall, if at least 10 business days notice is given to the Contractor, appear at any hearing scheduled on the appeal of the parcel to explain its calculations and defend the recommendation. This duty of the Contractor shall terminate when all appeals have been resolved.

Additional Person Days for functions related to real or personal property assessments may be obtained at the written request of the Assessor at a rate of \$750 per Person Day.

ARTICLE 18. INDEPENDENT CONTRACTOR

In the performance of this Contract. Contractor will be acting in an individual capacity and not as an agent, employee, partner, joint venturer or associate of the Assessor. The employees or agents of the Contractor shall not be deemed or construed to be the employees or agents of the Assessor for any purpose whatsoever.

ARTICLE 19. LIABILITY.

The Contractor agrees to indemnify, defend, and hold harmless the Assessor and his or her township and county and all agents, officers and employees of those townships and that county, from all claims and suits including, court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors in connection with this Contract.

ARTICLE 20. SUBCONTRACTING.

The Contractor must obtain the prior written approval of the Contract Representative before subcontracting all or any portion of this Contract. This limitation shall not apply to the purchase of standard commercial supplies or raw materials.

If subcontractors are used, the Contractor is responsible for contract performance, compliance with terms and conditions of this Contract, and the requirements of federal and state equal opportunity and affirmative action statutes, rules and regulations.

ARTICLE 21. FORCE MAJEURE.

Neither party shall be liable for delays or performance failures resulting from and caused by acts beyond the party's control. Such acts shall include acts of God, acts of war, epidemics, communication line failures, power failures, earthquakes, and other similar disasters. In every case, the delays must be beyond the control and without the fault or negligence of the non-performing party.

ARTICLE 22. MAINTAINING A DRUG-FREE WORKPLACE.

Contractor hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this Contract a drug-free workplace. and that it will give written notice to the Assessor within ten (10) days after receiving actual notice that an employee of the Contractor has been convicted of a criminal drug violation occurring in Contractor's workplace. In addition to the provisions of the above, if the total contract amount set forth in this Contract is in excess of \$25,000.00, Contractor further agrees that this Contract is expressly subject to the terms, conditions and representations contained in the Drug-Free Workplace certification executed by Contractor in conjunction with this Contract and which is appended as an Attachment to this Contract. It is further expressly agreed that the failure of Contractor to in good faith comply with the terms of the above, or falsifying or otherwise violating the terms of the certification referenced above shall constitute a material breach of this Contract, and shall entitle the Assessor

to impose sanctions against Contractor including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of Contractor from doing further business with the County for up to three (3) years.

ARTICLE 23. CONFIDENTIAL NATURE OF APPRAISAL DATA

The Contractor shall assure that no individual on the Contractor's staff shall disclose any appraisal information to any individual, firm or corporation other than appropriate public officials and their authorized agents. Any data that is to be released shall be provided to the Assessor who shall provide for its release. However, the Department and the Legislative Services Agency shall have unrestricted access to the Contractor's work product under this Contract.

ARTICLE 24. IDENTIFICATION.

All field personnel involved with the completion of this Contract shall carry identification cards, which will include a photograph of the individual and the County Assessor's signature. All automobiles used by field personnel shall be marked appropriately and registered with County Sheriffs office, with local police departments located within the county, and with the County Assessor's office.

ARTICLE 25. WORK PRODUCT DELIVERY.

The Contractor shall be responsible for the delivery of the following products to the Assessor at the completion or termination of this Contract:

- (1) Documentation of procedures used throughout the reassessment program;
- (2) Any and all training materials and manuals used to train the Contractor's staff;
- (3) All field worksheets for each parcel of real property;
- (4) All maps and/or other information provided for the Contractor by the Assessor;
- (5) All information gathered, created, or reviewed for the verification of sales disclosure; forms, neighborhood delineations, land values, and/or any time adjustments to sales prices; and
- (6) All ratio studies and supporting documentation.

ARTICLE 26. CONTRACTOR EMPLOYEES - PROJECT MANAGER.

The Contractor shall assign by name an Indiana Level II Assessor/Appraiser as project manager. The assigned Indiana Level II Assessor/Appraiser shall be: Jeff Wuensch. The current contact information for the assigned person is: 2021 E. 52nd Street, #106, Indianapolis, IN 46205 (317) 753-0005.

ARTICLE 27. OFFICE SPACE.

As available, the Assessor shall be responsible for providing the Contractor with office space or meeting facilities in connection with the execution of this contract. All other materials, equipment, supplies shall be supplied by the Contractor.

ARTICLE 28. INSURANCE AND WORKER'S COMPENSATION.

The Contractor shall carry automobile, public liability and worker's compensation insurance in the amounts as follows:

General (Professional) Liability Policy

Erie Insurance Group : Policy #Q25 0101611 R

Coverage Limits are: \$1,000,000 per occurrence, including personal and advertising injury limits; general aggregate limit of \$2,000,000

Worker's Compensation:

Erie Insurance Group : Policy #Q85 0104943 R

Coverage limits are: \$100,000 for bodily injury by accident

IN WITNESS WHEREOF, the parties have executed this contract by their duly authorized officers this 16 day of ~~October~~ 2007.

November

APPROVED:

Shelby County Assessor:

By: *O. Lynn Bass*
O. Lynn Bass

Nexus Group, Inc. Professional Appraiser:

By: *Jeff S. Wuensch*
Jeff S. Wuensch, COO

Shelby County Commissioners:

By: *[Signature]*

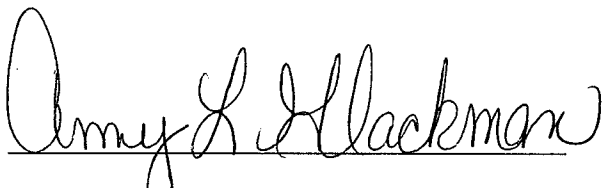
By: *[Signature]*

By: *David Mohr*

Shelby County Attorney:

By: *[Signature]*

ATTESTED: Shelby County Auditor:

By: 
Shelby County Auditor